

KENTUCKY PERSONNEL BOARD

MINUTES OF SPECIAL MEETING

NOVEMBER 2, 2007

1. A special meeting of the Kentucky Personnel Board was called to order by Chairman Greg Higgins, on November 2, 2007, at approximately 9:30 a.m., 5 Fountain Place, Frankfort, Kentucky.

Board personnel present:

Greg Higgins, Chairman
Tina Goodmann, Vice-Chairman
Betty Gibson, Member
Lisa Hendricks, Member
Rosemary Center, Member
Jack Andrews, Member
Bart Frazer, Member
Mark A. Sipek, Executive Director and Secretary
Boyce A. Crocker, General Counsel
Linda R. Morris, Administrative Section Supervisor

Chairman Higgins welcomed the members of the public who were in attendance. Those from the Personnel Cabinet included Secretary Brian Crall, Executive Director of the Office of Legal Services Thomas Stephens, Branch Manager of Classification and Compensation Jim Lambert, Assistant Director of Employee Management Larry Gillis, and Director of Staffing Services Barbara Barnes. Also in attendance were Hon. Sarah Hall, Deputy Executive Director of the Office of Legal Services in the Environmental and Public Protection Cabinet, and Hon. Daniel F. Egbers, Special Assistant in the Education Cabinet, who was previously General Counsel for the Personnel Cabinet. Chairman Higgins expressed that the floor was open for discussion from all present.

2. Proposed Changes to Administrative Regulations.

A. Written Reprimands

Mr. Sipek stated that a draft regulation had been provided to the Board which would allow the removal of written reprimands from personnel files after three years, upon petition of the employee to the Secretary of the Personnel Cabinet. He recommended that this be a part of 101 KAR 1:335, Employee Actions, and not part of 101 KAR 1:345, which is a disciplinary regulation. After discussion, the language "appropriate justification" was suggested to be added to the portion allowing the Secretary to deny the petition, to remove any semblance that this action could be arbitrary. A further suggested change was to add "former employee" to Section 6(1) and to change "Agencies" to "Employing agency" in Section 6(3).

B. Education Assistance Program – new 101 KAR 2:200

The Board had a draft of the Education Assistance Program which proposes to codify a program that has been around for several years, authorized by statute. The reason for the proposed regulation is that the Governmental Services Center (GSC) has not had any audit authority. The Personnel Cabinet, through GSC, needs more clearly defined oversight to promote more uniform compliance within the program. As clarification, it was suggested that a provision be added at (3)(e) stating that unclassified employees are not eligible for this program. After further discussion, the Board asked that Dr. Penny Armstrong, Executive Director of the GSC, be present at the November 9th Board meeting to answer questions.

C. Multilingual Hourly Premium 101 KAR 2:034

The Board had previously been provided a draft of this regulation. Mr. Lambert explained that this regulation had been initiated by the Cabinet for Health and Family Services who requested this premium to compensate workers who have multilingual skills. This regulation is modeled on the shift premium regulation and would only compensate those employees for the time in which they were using the skill. The employees will have to show proficiency in the language and could not be interpreters by occupation. Other cabinets have also showed an interest in this premium.

Chairman Higgins asked for a motion. **Ms. Goodmann moved to accept the regulation; Ms. Center seconded and the motion carried 6-0.**

D. Kentucky Employee Mediation Program – new 101 KAR 2:230

A draft of this regulation had previously been provided to the Board. This program has also been in existence for some time and needs to be codified. All present expressed that this was a good program for employees and agencies. Ms. Goodmann suggested some minor typographical changes. Mr. Sipek expressed his pleasure that the mediation was voluntary, as he believed it was much more productive that way. Chairman Higgins called for a vote. **Mr. Andrews moved to accept the new regulation with the typographical changes, Ms. Gibson seconded and the motion carried 6-0.**

3. Proposed Substantive Changes to KRS 18A.

Chairman Higgins stated that the next action would be to discuss substantive changes to KRS Chapter 18A as proposed by the Board's staff and previously submitted to the Personnel Cabinet for review and discussion. He stated that the objective was to see if there was agreement from the Board to the concepts expressed. If there was agreement on the changes needed, then a draft would be provided for the Board's review.

The statutes proposed for possible substantive changes were:

KRS 18A.005 (11), (24), (26) and (34)

KRS 18A.020(2)(c)

KRS 18A.032(1)(a) through (k) and adding new subsections (l) and (m)

KRS 18A.065
KRS 18A.070(3)
KRS 18A.095(7), (10), (13), (15), (23)(a) and (30)
KRS 18A.110(7)(c)
KRS 18A.115(l) through (q)
KRS 18A.135(3)
KRS 18A.140(1)

At 12:35 a.m., Ms. Hendricks moved to adjourn for lunch; Mr. Andrews seconded and the motion carried 6-0.

Ms. Hendricks moved to resume the meeting at 1:16 p.m.; Ms. Gibson seconded and the motion carried 6-0.

4. Proposed “Housekeeping” Changes to KRS 18A.

The statutes proposed for “housekeeping only” changes were:

KRS 18A.005(1), (13), (17), (19), (32) and (36)
KRS 18A.010
KRS 18A.037
KRS 18A.040
KRS 18A.075(3)
KRS 18A.0751(1), (4)(b), (c) and (g)
KRS 18A.095(3)(b), (4), (8) and (9)
KRS 18A.110(6)(a)
KRS 18A.111
KRS 18A.115(1)(d), (e), (h), (4) and (5)
KRS 18A.120(1)
KRS 18A.130(1)
KRS 18A.135(1)
KRS 18A.140(4)

Because Ms. Center had to leave at 2:00 p.m., the discussion of proposed housekeeping changes was suspended in order to hold the election of a Vice Chair. This matter had been deferred from the October meeting. The Chairman opened the floor for discussion. Mr. Andrews stated that he had expressed last month that he did not feel that both officers should be elected members. Vice Chair Goodmann stated that she has no problem with whatever the Board decides. Mr. Andrews reiterated that both the Chairman and Vice Chair are doing exemplary jobs, but this is a policy issue. Chairman Higgins said that he did not believe that public confidence would be undermined with both officers being merit members because all members are charged with the same duties. He does not think the public would be less trustful of merit employees than that of members appointed by the Governor. Mr. Andrews stated that the public perception is that the “fox is in charge of the henhouse,” but that is not the reality. Chairman Higgins stated the question is who is the fox? He believed public perception would more likely be that the “fox was in charge of the henhouse” if appointed members held both offices. Merit members were elected by merit employees; appointed

members were appointed by someone who had violated the merit laws. He does not understand that logic.

Ms. Center interjected that those who had been appointed lately may not have enough experience. She personally appreciates Ms. Goodman's insight into the Personnel Cabinet and her understanding of its day-to-day operation. Ms. Hendricks stated that the only reason she had moved to defer the vote in October was to allow everyone to have an opportunity to weigh in on the issue and to let others have an opportunity to serve if they wished. Mr. Frazer stated that he felt the appointed members represented the taxpayers and he understands Mr. Andrews' point. Ms. Goodman said that the elected members were not there to uphold merit employees, but to uphold the merit system. Mr. Frazer stated that it seemed equitable to have one from each group of Board members. Ms. Center said perhaps that needed to be a legislative change.

Mr. Frazer nominated Lisa Hendricks for Vice Chair. Ms. Hendricks declined the nomination. Mr. Frazer then nominated Betty Gibson, who also declined. Chairman Higgins nominated Tina Goodman; Ms. Gibson seconded and the motion carried 5-1 with the Chairman voting, Mr. Frazer voting no and Mr. Andrews abstaining.

The discussion of housekeeping changes to statutes then resumed and was concluded. There being no further business, Mr. Andrews moved to adjourn, Ms. Hendricks seconded, and the motion carried 6-0. (3:07 p.m.)

Greg Higgins, Chairman

Tina Goodman, Vice-Chairman

Bart Frazer, Member

Betty Gibson, Member

Lisa Hendricks, Member

Rosemary Center, Member

Jack Andrews, Member